IN THE HIGH COURT OF JUDICATURE FOR RAJASTHAN AT JODHPUR

O R D E R

Jeevan Khan Vs. State of Rajasthan & Anr.

S.B.CR. MISC. PETITION NO.1570/2007

DATE OF ORDER :: November 28, 2007

PRESENT

HON'BLE MR.JUSTICE H.R.PANWAR

Mr.Vinit Kumar Mathur, for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State.
Mr.N.L.Joshi, for the first informant.

BY THE COURT:

By the instant criminal misc. petition under section 482 Cr.P.C., the petitioner seeks quashing of FIR No.192/2007, Police Station, Kotwali, Churu for the offences under sections 420 and 406 I.P.C.

I have heard learned counsel for the parties. Carefully gone through the first information report.

It is contended by the learned counsel for the petitioner that the FIR does not disclose cognizable offence and the

averments made in the FIR did not make out the essential ingredients for the offences alleged. Learned counsel for the petitioner has relied on a decision of this Court in Harjinder Singh Vs. State of Rajasthan & Anr., 2007 (2) R.Cr.D. 3 (Raj.), wherein this Court quashed the proceedings on the identical facts. In that case, the first informant, who lodged the report alleged that he has been cheated by the present petitioner. The facts as disclosed in the material available on record of that case show that the first informant paid the money to the petitioner therein for sending him to Malesiya. The petitioner therein sent the first informant to Malesiya, however, the first informant came back to India and therefore, submitted that he has been cheated. From the material in that case, the first informant himself stated that the petitioner demanded security amount for sending him to Malesiya and, thereafter, VISA was obtained and he was sent to Malesiya. However, after reaching Malesiya, he did not find suitable job and therefore, he came back to India and lodged a report. This Court noticed that there is no element of cheating on the facts and circumstances of the case.

In the instant case, first informant Nawab Ali Khan alleged that his son Arif Khan was to go to Saudia Arabia for job and, therefore, he approached to the petitioner, paid him certain amounts for sending his son to Saudia Arabia. The petitioner

contacted the agent at Mumbai and Arif Khan was sent to Mumbai Office. There he completed certain formalities with regard to passport VISA etc. Thereafter, Arif Khan was sent to Saudia Arabia on 25.12.2006, he reached to Saudia Arabia, went to a company to which he entered into an agreement for job at Mumbai Office. He was provided the job at the rate of 800 Riyals per month, whereas the expectation of the first informant's son was 1500 Riyals per month. The first informant's son Arif Khan himself entered into an agreement, which bears the signature of Arif Khan and he agreed for the job at the rate of 800 Riyals per month on the profession of cook and thereafter, having not satisfied with the job, he came back to India and his father has lodged the report. In my view, the entire transaction even according to the first information report is that the petitioner took some amount for sending the first informant's son to Saudia Arabia and that has been fulfilled. It is Arif Khan, who accepted the terms and conditions of the job agreement including the job as also the salary. There is nothing on record to show that the petitioner ever entered into the agreement for getting him salary at the rate of 1500 Riyals per month at Saudia Arabia. On the contrary, the agreement duly signed by Arif Khan clearly stands admitted in the FIR. There is no allegation of entrustment of any amount by the first informant or his son Arif Khan, which was to be returned on

demand, alleged to have been misappropriated by the petitioner.

On careful perusal of the FIR, in my view, there is no element of cheating or misappropriation of the property entrusted. In the circumstances, therefore, allowing the FIR any further and investigation thereunder would be nothing but the abuse of process of Court.

In the result, the criminal misc. petition is allowed. The FIR No.192/2007, Police Station, Kotwali, Churu and any investigation taken thereunder is hereby quashed.

[H.R.PANWAR],J.

m.asif/-

S.B.Cr.Misc. Stay Petition No.1056/2007

In

S.B.Cr.Misc. Petition No.1570/2007

(Jeevan Khan Vs. State of Rajasthan & Anr.)

Date of order : November 28, 2007

HON'BLE MR.H.R.PANWAR,J.

Mr.Vinit Kumar Mathur, for the petitioner.
Mr.Ashok Upadhyaya, P.P. for the State.
Mr.N.L.Joshi, for the first informant.

Since the main petition has been allowed, stay petition stands disposed of.

(H.R.PANWAR),J.

m.asif/-